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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,807	11/14/2005	Raoul Guilielmus Boudewijn Marie Prick	ALG10220P00020US	2206
32116 7590 05/23/2008 WOOD, PHILLIPS, KATZ, CLARK & MORTIMER 500 W. MADISON STREET SUITE 3800 CHICAGO, IL 60661				
EXAMINER HAUTH, GALEN H				
ART UNIT 4111		PAPER NUMBER		
MAIL DATE 05/23/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/525,807

Applicant(s)PRICK, RAOUL GUILIELMUS
BOUDEWIJN MARIE**Examiner**

GALEN HAUTH

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 9, 10 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-10, 16-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 03/07/2005
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

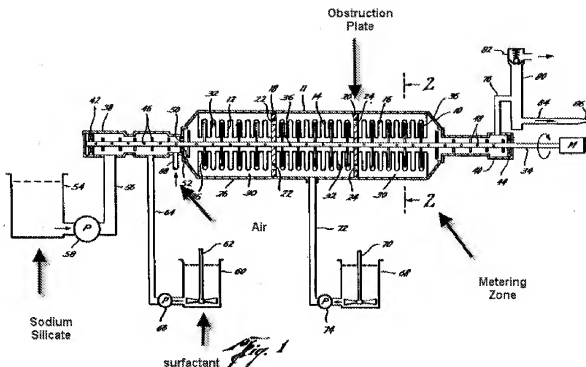
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Mallow et al. (PN 3741898).

a. With regards to claim 1, Mallow teaches a method for forming a sodium silicate foam (col. 1 lines 14-20) using the tubular apparatus from Figure 1 below. Mallow teaches that the Sodium Silicate (54) is introduced to the mixer with compressed air (88; col. 7 lines 52-68) where it passes through a three chambered (12, 14, 16) cylindrical mixer with dividing plates between the chambers (18, 20). The well mixed foam product exits the mixer through an

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outlet (86).



- b. With regards to claims 2-6 with respect to claim 1, Mallow teaches using compressed air being added to the mixer (col 7 ln 45-46), using sodium silicate as the silicate (abstract), adding a surfactant to the mixer (abstract, "surface tension depressant").
- c. With regards to claim 9 with respect to claim 1, the mixture comprising sodium silicate is metered through the mixer by pumps (Fig. 1 - 58, 68, 74) and the pressure of the air (col 8 ln 9-12) which takes place downstream from the

location of the addition of the compressed air to the chamber, because the pressure provided by pump 74 added to the middle chamber takes place downstream from the inlet port for the compressed air.

d. With regards to claim 10, Mallow teaches as seen in Figure 1 above creating a foam product by introducing sodium silicate (54) and compressed air (88) into a mixing chamber where it passes through a three chambered (12, 14, 16) cylindrical mixer with dividing plates between the chambers (18, 20). The well mixed foam product exits the mixer through an outlet (86).

3. Claims 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Blount (PN 4260696).

a. With regards to claims 16-20, Blount teaches a method for using a foam containing silicate (col 1 ln 15-22; col 2 ln 10) and compressed air (col 9 ln 27-29) to perform as an adhesive (col 1 ln 26; col. 12 ln 39-47), fire retardant (col 7 ln 27), moisture repellant (col 9 ln 46), binder (col 12 ln 14-16), and impregnating agent (col 9 ln 65). Although Blount teaches a foam polyurethane in addition to sodium silicate, the product as claimed does not preclude the addition of other materials to the foam.

Note: Where ... the claimed and prior art products are identical or substantially identical, or are produced by identical or substantially identical processes, the PTO can require an applicant to prove that the prior art products do not necessarily or inherently possess the characteristics of his claimed product.

Whether the rejection is based on “inherency” under 35 USC § 102, on

prima facie obviousness” under 35 USC § 103, jointly or alternatively, the burden of proof is the same, and its fairness is evidenced by the PTO’s inability to manufacture products or to obtain and compare prior art products.” In re Best, 562 F2d 1252, 1255, 195 USPQ 430, 433-4 (CCPA 1977).

4. Claims 16, 17, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Niedner et al. (PN 6497945).

a. Niedner teaches that it is known in the art to use sodium silicate foam for use as an adhesive, binding agent (col 1 ln 66-67 through col 2 ln 1-2), and fire retardant (col 1 ln 45-46).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GALEN HAUTH whose telephone number is (571)270-5516. The examiner can normally be reached on Monday to Thursday 7:30am-5:00pm ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Sam Yao can be reached on (571)272-1224. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GHH/

/Sam Chuan C. Yao/
Supervisory Patent Examiner, Art Unit 4111